

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ZIA SHADOWS, L.L.C., a New
Mexico Limited Liability Company,
ALEX GARTH and WILLIAM
GARTH,

Plaintiffs,

v.

CV 9-909 WPL/SMV

CITY OF LAS CRUCES, NEW
MEXICO, a municipal corporation,

Defendant.

ORDER REGARDING COURT'S PROPOSED JURY INSTRUCTIONS

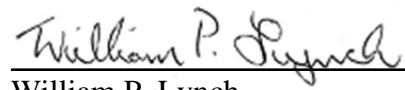
I have reviewed the Stipulated Jury Instructions and the Plaintiffs' and City's proposed jury instructions. Attached as exhibits to this Order are the Court's proposed jury instructions and proposed special verdict form for this case. Counsel should consider the following comments when analyzing these proposed jury instructions and verdict form:

1. The parties have requested certain jury instructions (*i.e.*, stock instructions 2, 17, 18 and 19) which will be given if the evidence submitted warrants them.
2. The parties have requested stock instruction 4, an instruction given when the rights of various plaintiffs are separate and distinct. I fail to see how this instruction applies in this case and therefore refuse this instruction.
3. The parties have also requested stock instructions 6 and 7, which I normally give during trial when interrogatories or deposition testimony is referenced and not again at the close of the case.

4. Plaintiffs' claims for loss of future earning ability and pain and suffering in Plaintiffs' Jury Instruction No. 1 are refused. Plaintiffs may submit a supplemental jury instruction with proper elements of damages.
5. The City's Requested Jury Instruction No. 15 is refused, and I have drafted a jury instruction that addresses what Plaintiffs must demonstrate in order to hold the City liable under 42 U.S.C.A. § 1983.
6. The City's Requested Jury Instruction No. 21 is refused. See *Van Deelen v. Johnson*, 497 F.3d 1151, 1155-57 (10th Cir. 2007).

Counsel shall file supplemental jury instructions and objections to these jury instructions and special verdict form by August 8, 2014, at 5 p.m. Further, counsel shall be prepared to discuss the jury instructions and special verdict form at the conclusion of testimony on the first day of trial.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "William P. Lynch", is written over a horizontal line.

William P. Lynch
United States Magistrate Judge